

REMARKS

Claims 1, 3-7, and 9 are currently pending in the application. By this response, claims 1, 5, and 9 are amended and claims 2, 8, 10, and 11 are canceled. The above amendments do not add new matter to the application and are fully supported by the original disclosure. For example, support for the amendments is provided in the claims as originally filed, at Figures 1-3, and at pages 3-7 of the specification. Reconsideration of the rejected claims in view of the above amendments and the following remarks is respectfully requested.

Interview Summary

Applicants thank Examiner Laux and Supervisory Patent Examiner Friedman for their courtesy during telephone conversations with Applicants' representative on August 10, 2006. Applicants' representative contacted the Examiners to discuss the statement in the Advisory Action of August 4, 2006 that "Applicants' arguments to the dependent claims are persuasive". In the telephone conversations, Examiners Laux and Friedman indicated that Applicants' arguments submitted on June 28 2006 and regarding at least dependent claims 2 and 10 and were persuasive. More specifically, Examiner's Laux and Friedman indicated that claims 2 and 10 were distinguishable over the applied art.

Accordingly, Applicants submit that this amendment places the application in condition for allowance by rewriting dependent claim 2 in independent form by incorporating the features of claim 2 into claim 1 and canceling claim 2, and by rewriting dependent claim 10 in independent form by incorporating the features of claims 8 and 10 into claim 5 and canceling claims 8 and 10.

35 U.S.C. §102 Rejection

Claims 1-11 were rejected under 35 U.S.C. §102(b) for being anticipated by U. S. Patent No. 6,006,486 issued to Moriau et al. ("Moriau"). This rejection is respectfully traversed.

To anticipate a claim, each and every element as set forth in the claim must be found, either expressly or inherently described, in a single prior art reference. MPEP §2131.

The Examiner asserts that Moriau teaches or suggests all of the features of the claimed invention. Applicants respectfully disagree and submit that Moriau does not show each and every element of the claims, and therefore does not anticipate the claims.

Independent Claim 1

The present invention is related to a floor panel. Claim 1 has been amended to incorporate the features of claim 2. Claim 1 recites, in pertinent part,

... further comprising form-fitting elements for locking in the vertical direction (V) with a further panel formed on a second side edge running at an angle to the first side edge, wherein the form-fitting elements are spaced apart from one another in the transverse direction (Q) and in the vertical direction (V) on two spaced-apart, essentially vertically oriented walls and further comprising a tongue formed on the first side edge and extending in the longitudinal direction of the first side edge, and a recess corresponding to the tongue formed on an opposite side edge, wherein an underside of the tongue, starting from a tip of the tongue, has a continuously curved contour and wherein a radius of curvature of the contour of the underside of the tongue is constant over at least 90 degrees.

These features are not shown by Moriau.

The Examiner is of the opinion that Moriau discloses these features in Figures 22-25, lines 23-25 of column 3, and lines 36-39 of column 6. More particularly, the Examiner asserts that element 9 is a first form fitting element and element 6 is a second form fitting element for locking in the vertical direction. Applicants respectfully disagree.

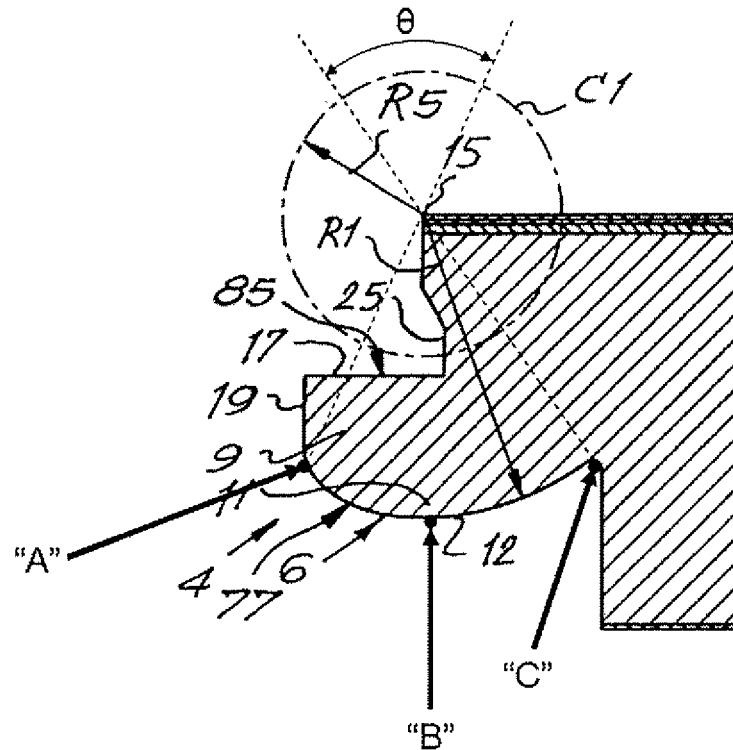
Moriau does not show a panel having a side having form fitting elements for locking in the vertical direction where the form fitting elements are spaced apart from one another in the vertical and transverse direction, as recited in the claimed invention. Instead, Moriau shows in FIGS. 22-25 a preferred embodiment of the invention in which parts corresponding with other embodiments are indicated with like reference characters (col. 9, lines 58-62). In FIG. 22, Moriau shows a side 2 of a panel 1 having a tongue 9 formed on a substantially vertical wall (near 88). When tongue 9 is received in the groove 10 of another panel, the upper surface of the tongue 9 abuts against the lower surface of the groove 10 and locks the panel 1 in the vertical direction.

Moriau does not, however, disclose that side 2 has a second form-fitting element for locking in the vertical direction, as recited in the claimed invention. Contrary to the Examiner's assertions, element 6 does not lock panel 1 in the vertical direction.

Instead, element 6 locks the panel 1 in the transverse direction. Inspection of FIGS. 22-25 reveals that element 6 will not prevent panel 1 from moving upward in the vertical direction when coupled with another panel. Therefore, element 6 is not for locking in the vertical direction, as recited in the claimed invention. In fact, Moriau explicitly states that "locking parts or elements 6 ... prevent the drifting or sliding apart of two coupled

floor panels in a direction D ... parallel to the underside of the coupled floor panels...” (col. 5, lines 30-33). Therefore, Moriau does not disclose a side of a panel having spaced apart form-fitting elements for locking in the vertical direction, and does not anticipate claim 1.

Moreover, Moriau does not show that a radius of curvature of the contour of the underside of the tongue is constant over at least 90 degrees, as further recited in claim 1. In fact, it is clearly seen in FIG. 2 of Moriau that the radius of curvature R1 of the underside 12 of the tongue is not constant over at least 90 degrees. Moriau shows a tongue 4 with underside 12, which has a radius of curvature that originates at point 15 (see FIG. 2 reproduced below). For the radius of curvature of the underside 12 to be constant, the length of every line from point 15 to any point on underside 12 must be equal. For the radius of curvature to be constant over at least 90°, this equality must be true for all points along underside 12 through an angle of at least 90°. However, close inspection of FIG. 2 reveals that the radius of curvature R1, which originates at point 15, has different lengths at different points along the underside 12. For example, the length of R1 at point “A” is different from the length of R1 at point “B”. Likewise, the length of R1 at point “C” is different from the length of R1 at both “A” and “B”. In other words, the radius of curvature R1 of the underside 12 of the tongue has different lengths at points “A”, “B” and “C”, and, therefore, is not constant over angle θ .



Moreover, even assuming *arguendo* that the radius of curvature R1 is constant over the angle θ , which Applicants do not concede, inspection of FIG. 2 reveals that the subtended angle θ is less than 90° . Thus, Moriau does not show that the radius of curvature of the underside of the tongue is constant over at least 90° , as recited in the claimed invention.

Independent Claim 5

Claim 5 has been amended to incorporate the features of claims 8 and 10. Claim 5 recites, in part:

... a second side edge extending in a transverse direction to the first side edge and having form-fitting elements for locking in a vertical direction with a further panel, wherein the form-fitting elements are spaced apart

from one another in the vertical direction and the transverse direction,

wherein the second side edge includes a first step-like milled relief starting from the underside and having an essentially vertical inner wall and an essentially vertical outer wall, wherein one said form-fitting element is formed on the inner wall and an other said form-fitting element is formed on the outer wall, and

the first step-like milled relief includes an essentially horizontal head surface with a channel formed therein.

These features are not shown by Moriau.

As discussed above, Moriau does not disclose a side of a panel having spaced apart form-fitting elements for locking in the vertical direction. Moreover, Moriau does not disclose a channel formed in an essentially horizontally oriented head surface, as further recited in claim 5. The Examiner asserts that the horizontal surface extending to the right of slanted surface 74 (FIGS. 22, 23) constitutes an essentially horizontally oriented head surface, and that dust chamber 81 is a channel formed therein.

Applicants disagree. Dust chambers 81 (FIG 23) are not formed in any surface of panel 1. Instead, the dust chambers 81 are formed by corresponding surfaces of two respective panels that are connected as shown in FIG. 23. However, as shown in FIG. 22, the dust chambers 81 are not formed in any surface of the panel 1. Thus, Moriau does not disclose a channel formed in an essentially horizontally oriented head surface, and does not anticipate claim 5.

Dependent Claims

Applicants submit that claims 3, 4, 6, 7, and 9 depend from an allowable base claim, and are allowable at least for the reasons discussed above.

Accordingly, Applicants respectfully request that the rejection over claims 1, 3-7, and 9 be withdrawn.

Other Matters

Claim 9 has been amended to depend from claim 5 because claim 8, from which claim 9 previously depended, has been canceled.

While Applicants do not agree that the applied art renders claim 11 unpatentable, in order to advance prosecution, claim 11 has been canceled. However, Applicants reserve the right to refile the subject matter of claim 11 in one or more continuing applications.

CONCLUSION

In view of the foregoing amendments and remarks, Applicants submit that all of the claims are patentably distinct from the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue. The Examiner is invited to contact the undersigned at the telephone number listed below, if needed. Applicants hereby make a written conditional petition for extension of time, if required. Please charge any deficiencies in fees and credit any overpayment of fees to Attorney's Deposit Account No. 19-0089.

Respectfully submitted,
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